



STATE REPRESENTATIVE
CORY MASON

WISCONSIN STATE ASSEMBLY
62ND ASSEMBLY DISTRICT

TO: Senate Committee on Judiciary, Corrections, & Housing

FROM: Representative Cory Mason

RE: Senate Bill 461

DATE: February 14, 2008

Thank you Chairwoman Taylor and committee members for holding a hearing on Senate Bill 461.

Due to several recent U.S. Supreme Court decisions, state and University of Wisconsin employees are not protected under several federal civil rights laws including:

- **Age Discrimination Employment Act**
- **Family Leave Medical Leave Act**
- **Americans with Disabilities Act**
- **Fair Labor Standards Act**

The court ruled that Eleventh Amendment that ensures that states are immune from lawsuits displaced the equal protection rights guaranteed to every citizen under the Fourteenth Amendment. The court also held that if a state wanted to wave its immunity in these matters, it could do so. This bill seeks to do just that.

While the state of Wisconsin has similar provisions in Wisconsin law, university and state employees should not be relegated to second class status who cannot access the federal courts for protection under these important civil rights.

I strongly urge members of the Senate Committee on Judiciary, Corrections, & Housing to approve the bill quickly to restore federal civil rights to every Wisconsin citizen.

I would be happy to entertain any questions you might have.

To: Senator Lena Taylor, Chairperson and Committee members of the Senate Judiciary, Corrections and Housing Committee

From: Jodi Hanna on behalf of Disability Rights Wisconsin (DRW)

Date: February 14, 2008

RE: SB 461

DRW strongly supports SB 461. Although we also support the provisions related to the FLSA, ADEA and FMLA, we want to highlight our support of the provision which creates liability for Wisconsin state government for violations of Title I of the Americans with Disabilities Act.

DRW is the protection and advocacy agency for people with disabilities in Wisconsin. In 2006, our agency provided legal advocacy to over 4,500 people with disabilities and trained to almost 5,800 people on the legal rights of people with disabilities. One of the areas of focus for our agency is providing legal advocacy for employees with disabilities who have experienced employment discrimination. We provide systems advocacy as well as individual and class-action representation. I am an attorney on our Civil Rights team and at least 1/3 of requests for assistance that our team receives relate to employment discrimination. It comprises the most significant amount of my practice as an attorney. As part of our work, DRW routinely advises and represents State employees with disabilities who have experienced discrimination, so we are well-aware of the disparate remedies available to state employees with disabilities with discrimination claims.

We believe the ADA provisions of this bill are important because they acknowledge the rights of Wisconsin citizens to be free from discrimination, regardless of employer. Related to the ADA, this bill ensures that the state government is liable for acts of discrimination against individuals with disabilities in the same way as any employer, any business or any other legal of government. If enacted, it will place the same duties of non-discrimination and reasonable accommodation on the state as every other employer. It will provide people with disabilities the same legal protections and remedies in dealing with the state as exists with every other level of government or private business.

Thank you for the opportunity to testify.



February 14, 2008

To: Senate Committee on Judiciary, Corrections and Housing

From Patsy Evans, AARP Wisconsin

Re: Support for SB 461, related to employment discrimination

Good afternoon. My name is Patsy Evans. I am an AARP Wisconsin Volunteer Advocate and a retired Academic Staff Senior Lecturer in the UW Medical School and Public Health Department of Pathology and Laboratory Medicine.

AARP is a membership organization for people 50+ with 826,000 members in Wisconsin.

AARP is pleased to be here today in support of Senator Taylor's proposal to allow state employee's to sue the state for age or disability discrimination – as well as for violations of the Fair Labor Standards Act. This is an important issue. In fact, it is a signature principle for AARP that employees, particularly those above 40, be judged on their abilities, not their age.

As has been explained, three U.S. Supreme Court decisions currently prevent state employees from bringing a suit for discrimination. Violations will go unchallenged unless the federal government brings the claims on behalf of the aggrieved individuals. And the federal government has lots on its plate. It cannot be expected to bring suit for every state worker facing age or disability bias or FLSA violations.

Wisconsin reflects employment throughout the United States – that is a majority of Wisconsin's public employees are older. According to a 2001 study commissioned by the Department of Employee Trust Funds, 61% of employees covered by the Wisconsin Retirement System are in the baby boom generation. Approximately 30% are early baby boomers (those born between 1946 and 1953) and are already retiring.

I've handed out a report AARP released in December of 2005 entitled "Business Case for Workers Age 50+: Planning for Tomorrow's Talent Needs in Today's Competitive Environment: Key Findings." Please take a look when you have a chance. I think some of the findings will surprise you.

In conclusion, state employees should not be relegated to second-class citizenship with respect to age and disability bias claims. If this legislation is not enacted, state employees will continue to be deprived of legal rights equivalent to those afforded private sector workers.

AARP strongly supports SB 461 and asks you to support it. Thank you for your consideration.
